



Docket No. 915-008.018
Serial No. 10/749,872

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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Re Application of: Tarmo HYTTINEN

Serial No.: 10/749,872

Examiner: Boris Pesin

Filed: December 31, 2003

Group Art Unit: 2174

Attorney Handling Matter: Paul Shanoski

For: LOG SYSTEM FOR CALENDAR ALARMS

Mail Stop - Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

ATTN. Paul Shanoski, Senior Attorney, Office of Petitions

RENEWED PETITION PURSUANT TO 37 C.F.R. § 1.181(a)

Dear Sir:

CERTIFICATE OF MAILING

I hereby certify that this correspondence is being deposited with the United States Postal Service on the date shown below with sufficient postage as first class mail in an envelope addressed to:
Mail Stop Amendment, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

Jennifer Hanlon
Jennifer Hanlon

Dated: 10-1-09

This is a Renewed Petition under 37 C.F.R. 1.181(a) to withdraw a holding of abandonment. In response to the petition filed on July 24, 2009, the Office asserted that the Petitioner's assertion of non-receipt was not adequately supported because the Petitioner did not provide a statement describing the system used for recording an Office communication received at the correspondence address of record with the USPTO and has not established that the docketing system is sufficiently reliable. The Petitioner provides this information below in the Renewed Petition, which also incorporates the previously filed petition.

On June 11, 2009, applicant's attorney received a Notice of Abandonment in this case, which was mailed on June 8, 2009. A review of the USPTO's PAIR system on June 11, 2009 indicated that a Notice of Non-Compliant Amendment had been mailed on April 16, 2008. However, only the USPTO cover page and the second page containing a header reading "Notice of Non-Compliant Amendment" are currently available on the PAIR System. No "Continuation Sheet(s)" showing the details of non-compliance are available on the PAIR System. A search of our files indicated that we had never received the Notice of Non-Compliant Amendment of April 16, 2008.

The undersigned attorney spoke with Examiner Pesin on June 15, 2009, and informed him that the Notice of Non-Compliant Amendment of April 16, 2008 was never received by the undersigned. On June 16, 2009, we received a copy via facsimile of the Notice of Non-Compliant Amendment in its entirety from Examiner Boris Pesin.

An amendment responsive to the Notice of Non-Compliant Amendment of April 16, 2008 is enclosed.

Also enclosed with this Petition is a Declaration of Patricia Zablocky evidencing that a review of our daily mail lists for the period April 17, 2008 through April 28, 2008 has been made and based on that review, it appears that the Notice of Non-Compliant Amendment was never received in our office.

The system used by this Office for recording a received Office communication involves the docket clerk recording the received communication on a daily mail list and inputting the subject matter of the communication into the electronic docketing system. If a communication is received, it is entered into the daily mail list. Information included on the daily mail list includes the docket number the communication pertains to, a brief statement of the subject matter of the communication, and the initials of the person in the office for which the communication is intended. This is a system that we take very seriously and we take pains to ensure that each and every incoming piece of mail is included on the list for each day. It is a reliable system of recording all the mail we receive. Examples of a daily mail list can be found in the attachments accompanying the Declarations submitted with the petition filed July 24, 2009. When the mail is distributed to each practitioner, the mailing list is also supplied to each practitioner for review. If the communication is one which imposes some form of a deadline, such as an Office Action or a Notice of Non-Compliant Amendment, the subject matter of the communication is also entered into the electronic docketing system. The entered information includes the docket number, the matter which is due, the date the matter is due, and various dates in anticipation of the final due date (such as "Response due one month hence"). The docket entry is then included on a printed docket sheet specific for the file to which it pertains, and is placed in the front of the file contents in prominent yellow paper. The docket entry also appears in the printed docket for each individual practitioner, which also includes entries relating to future due dates, such as if a response is due one month hence. An example of a master docket can be found in the attachments accompanying the Declarations. Each communication is also stamped as "Received" or "Docketed," and the date, docket number, and practitioner are recorded on the communication when stamped. This system is very reliable, as any received Office communication which imposes a deadline is reviewed and recorded in both the mail list and the dockets. In the event where a communication was unintentionally omitted from the mail list, it would be noticed when the docket clerk enters the received communications into the docket, or when the communication is given to the relevant practitioner. Further, if a communication is unintentionally not docketed upon receipt, the error would be noticed by the

practitioner upon being provided the communication and mail list. Thus, it is highly unlikely that an Office communication could be received and not recorded in either the mail list or docket.

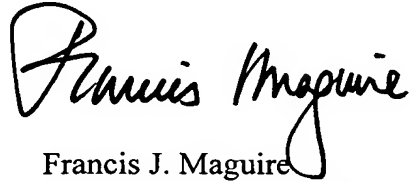
This conclusion that the Notice of Non-Compliant Amendment was never received in our office is made because the daily mail list contains all of the incoming mail received from the U.S. Postal Service and the lists for the period in question do not include any indication that anything was ever received for the subject patent application under our Docket No. 915-008.018. Our mail list is organized using our docket numbers instead of the U.S. Patent and Trademark Office's serial numbers. Our docket number corresponding to Serial No. 10/749,872 is 915-008.018. The Declaration of Patricia Zablocky, who is no longer in our employ, also evidences that the Notice of Non-Compliant Amendment was never received by virtue of the fact that it was never docketed. The master docket sheet for the firm submitted by her as evidence clearly show the absence of any reference to the case number 915-008.018 in the Task/Deadlines or Reminders sections on May 16, 2008 which would normally have appeared on our docket sheet if the Notice of Non-Compliant Amendment had been received. Normally, we would have had a Task/Deadline on May 16 for that case to indicate that a response to a Notice of Non-Compliant Amendment was due.

Also enclosed with this petition is a Declaration by Suzanne Verespej, who is no longer in our employ, evidencing that no Office Action for the case number 915-008.018 was received on April 18, 2008 which is the day that Suzanne handled the mail list for Ware, Fressola, Van Der Sluys & Adolphson LLP.

Therefore, it is believed that the Notice of Non-Compliant Amendment was never received and it is requested that this Rule 181 petition be granted. In the unlikely event the Rule 181 petition cannot for good and sufficient reason be granted, it is requested in the alternative that this paper be considered a petition for revival of an application for patent abandoned unintentionally under 37 CFR

1.137(b) since the entire delay was unintentional. Our Deposit Account No. 23-0442 may in that event be used to pay any fee required under Rule 17(m).

Respectfully submitted,

A handwritten signature in black ink, reading "Francis Maguire". The signature is written in a cursive style with a large, looped initial "F".

Francis J. Maguire
Attorney for the Applicant
Registration No. 31,391

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